

Appl. No.: 09/776,202
Response dated April 17, 2003
Office Action Oct. 23, 2002

REMARKS

Priority

The Action challenges the Applicant's claim of priority. The claims of this application find support in the Application of Garner as filed, specifically, claims 1-38 of Provisional Application, filed June 4, 1998, Serial No. 60/087,948 and the specification, for example, Figures 3 and 4. Along with Figures 3 and 4, and the description supporting those figures, the description of the invention at pages 12-13, teaches a "reaction chamber 50 into which chemicals are pumped... can be kept in syringes and pumped manually... [or] an automated fluidics system 36, as depicted in figure 3 can be used... ." Clearly, the specification teaches from its earliest priority date a "reactor chamber and a reagent manifold." Therefore, applicant is entitled to the claim of priority as claimed and filed. Applicant respectfully requests withdrawal of the objection.

Specification

The amendment of claims is objected to as including new matter, namely, a chemical reactor, reagent manifold, spatial optical modulators, reflectors, halogen lamp, light emitting diodes, reflective liquid crystal device and transmissive liquid crystal device. Support for the attached claims and the use of the listed terms may be found throughout the Specification, in the claims and in the co-pending parent application. More particularly, the Applicant points again to figures 1, 2, 3 and 4 and the specification as filed.

The standard for language in the claims is that:

... an applicant is not limited to the nomenclature used in the application as filed, he or she should make appropriate amendment of the specification whenever this nomenclature is departed from by amendment of the claims so as to have clear support or antecedent basis in the specification for the new terms appearing in the claims. This is necessary in order to insure certainty in construing the claims in the light of the specification, *Ex parte Kotler*, 1901 C.D. 62, 95 O.G. 2684 (Comm'r Pat. 1901). See 37 CFR 1.75, MPEP § 608.01(i) and § 1302.01.

In addition to the language that is found in the specification, e.g., "reaction chamber 50," which supports the term "chemical reactor" the skilled artisan will recognize that, e.g., a "halogen lamp" is a "light source 12, which produces a light 14" and that a halogen lamp may be

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used for a "light catalyzed chemical reaction." See Page 9, ll. 9-22. A reagent manifold is clearly shown in figure 3, part 36. Furthermore, a spatial optical modulator is shown in Figures 1, part 16, Figure 2, part 16 and 20, figure 3 and figure 4. Reflective optics are shown in figure 4, part 62. Finally, as to the "light emitting diodes, reflective liquid crystal device and transmissive liquid crystal device," the specification teaches that "other light deflection systems" may be used instead of a micromirror array (page 10, ll. 2-6), along with a description of the manner in which light is controlled and targeted to a substrate. The skilled artisan will recognize that the description of terms in the specification and the figures as filed support the claim language objected to in the Action. The Applicant is not required to use language that is *ipsissimis verbis* in the specification so long as the skilled artisan will recognize the meaning in the art. Applicant respectfully requests withdrawal of the objection.

Claim Rejections Section 112.

The Action rejects the claims under Section 112 for the same reasons as it rejects the claim language as new matter and/or denies the priority claim of the application. The response above, and the locations in the specification of the support for the claim language as filed, is incorporated herein. The claim language, its support in the specification, and the figures satisfy the written description requirement. Applicant respectfully requests withdrawal of the rejection.

Claim Rejections Section 102.

Claims 62-69 are rejected under 35 U.S.C. § 102(e) as anticipated by Fodor (U.S. Patent No. 6,379,895, filed December 6, 1990). The present invention is directed to specifically overcome the problems with Fodor. The skilled artisan knows that the Fodor device uses a number of photolithographic steps to create a substrate. The problem with Fodor is that it requires that a large number of very expensive photolithographic reticles have to be custom designed and made for each and every base addition to the substrate. High resolution photolithographic reticles are made with platinum overlays that have a limited lifetime of use. Unlike Fodor, each and every one of the claims at issue in this application uses a computer controlled spatial light modulator (see figures 1, 2, 3 and 4) to create a pattern based solely on the instructions for light modulation provided by a computer to create a pattern (see rendering of photograph that is figure 7 based on the pattern of figure 6). No reticle is required. Unlike the

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very expensive reticles that provide a very limited number of individual uses and no customization of patterns, the present invention may use software as readily available and simple to use as Microsoft® Powerpoint® to customize each and every pattern, in real-time, without forming a single reticle. Applicant again respectfully requests withdrawal of the rejection.

The claims are also rejected under 35 U.S.C. §102(e) as anticipated by Cerrian, et al. (U.S. Patent No. 6,375,903 B1, filed Feb. 23, 1998) and Gao, et al., (U.S. Patent No. 6,426,184, filed Feb. 11, 1998). Applicant directs the Examiner's attention to U.S. Patent No. 6,295,153, issued to Garner, which overcomes rejections based on the same or related art. Enclosed please find a copy of an Affidavit that was filed in support of a related case owned by the Assignee of record, that claims the same priority as the extant case and that is based on the same specification. This Affidavit establishes the completion of the invention, which is the subject of the Continuation of Patent Application Serial No. 09/776,202, filed February 2, 2001, entitled **DIGITAL OPTICAL CHEMISTRY MICROMIRROR IMAGER**, which claims priority to Provisional Patent Application Serial No. 60/087,948, filed June 4, 1998 in the United States at a date prior to February 1998, which are the dates of the prior art cited.

Applicant submits that the claims at issue are fully patentable and respectfully requests allowance of all the claims. The photograph attached (Exhibit A), and the annotated equivalent (Exhibit B, annotated by Applicant for the Examiner's convenience), demonstrate an invention date prior to the effective date of the United States filing date of the Application cited in the Office Action in support of the rejection. The photograph in Exhibit A antedates the effective filing date of the WO 99/41007 Application, dated February 21, 1998. The invention disclosed and claimed in the present Application was used to produce a mask pattern on a substrate on the date even therewith, which is on or before February 21, 1998 (WO 99/41007) and February 23, 1998 (WO 99/42813), which is a date earlier than the effective dates of the references. Therefore, the claims in the present Application are allowable in light of the art cited in the parent case, from which these claims are copies. All pending claims are therefore allowable and Applicant respectfully request withdrawal of all pending rejections.

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The Examiner is invited to telephone the undersigned at the telephone number listed below if he or she has any questions or suggested amendments to the claims.

Dated this April 17, 2003.

Respectfully submitted,

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